

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SHERMAN MACK,)	
Plaintiff,)	
)	C.A. No. 21-312 Erie
)	
v.)	
)	District Judge Susan Paradise Baxter
WARDEN SUTTER, et al.,)	Magistrate Judge Richard A. Lanzillo
Defendants.)	

MEMORANDUM ORDER

Plaintiff Sherman Mack, an inmate formerly incarcerated at the Erie County Prison in Erie, Pennsylvania (“ECP”),¹ initiated this *pro se* civil rights action on November 12, 2021, asserting claims under the first, eighth, and fourteenth amendments to the United States Constitution, against the following staff members at ECP: Warden Sutter, Deputy Bryant, Deputy Holman, Capt. Carter, Counselor Chafee, and Lt. DeFranko. The case was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. This matter was subsequently reassigned to the undersigned, as presiding judge, on January 20, 2022, with Judge Lanzillo remaining as the referred Magistrate Judge for all pretrial proceedings.

On February 14, 2022, Defendants filed a motion to dismiss or, in the alternative, motion for summary judgment [ECF No. 17], Asserting that Plaintiff has failed to state a claim upon which relief may be granted. Despite having been granted multiple extensions of time to file a

¹
Plaintiff is currently incarcerated at the State Correctional Institution at Somerset, Pennsylvania.

response to Defendants' motion, Plaintiff failed to do so.

On July 19, 2022, Judge Lanzillo issued a Magistrate Judge's Report and Recommendation ("R&R") recommending that Defendants' motion to dismiss or, in the alternative, motion for summary judgment be granted. [ECF No. 34]. Objections to the R&R were due to be filed by August 5, 2022; however, no objections have been filed to date.

After *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 12th day of August, 2022;

IT IS HEREBY ORDERED that Defendants' motion to dismiss or, in the alternative, motion for summary judgment [ECF No. 17], is GRANTED, and judgment is entered in favor of Defendants on all of Plaintiff's claims, as a matter of law. The report and recommendation of Magistrate Judge Lanzillo, issued July 19, 2022 [ECF No. 34], is adopted as the opinion of the court.

The Clerk is directed to mark this case CLOSED.


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
U.S. Magistrate Judge